

REMARKS

I. Introduction

This paper addresses the final Office Action of January 16, 2009, in connection with the above-captioned application. Concurrently herewith, Applicants are filing a Request for Continued Examination pursuant to 37 C.F.R. § 1.114 and paying the required fee set forth in § 1.17(e). Therefore, pursuant to 37 C.F.R. § 1.114(d), Applicants request that the finality of the January 16, 2009 Office Action be withdrawn and that the Office consider Applicants' current amendment and remarks.

Claims 1-21 are currently pending. Claims 1-9 stand rejected. Claims 1-4, 7, and 9 are amended. Claims 10-21 are added. No new matter has been added. The amendment is supported by the application as originally filed. Reconsideration of the application is respectfully requested in light of the amendment and the following remarks.

II. Rejection of Claims 1-4, 6, and 8-9 under 35 U.S.C. § 102(b)

Claims 1-4, 6, and 8-9 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,761,601 ("Nemirofsky"). It is respectfully submitted that the pending claims are patentable over the cited reference for at least the following reasons.

Although the rejection is not agreed with, independent claim 1 is amended herein. As amended, claim 1 recites:

A method for creating a message campaign, said message campaign allowing the creation of a plurality of different individual advertisements ~~messages to~~ for targeted audiences, ~~wherein a specific targeted audience receives a selected one of said plurality of different messages based upon criteria of said specific targeted audiences,~~ said method comprising:

providing a plurality of media segments, said media segments configured to be assembled for assembly into said plurality of ~~different messages~~ individual advertisements to targeted audiences, wherein at least one of said media segments is interchangeable with another one of said media segments;

providing assembly information regarding how said plurality of media segments may be assembled to create said plurality of individual advertisements ~~different messages to targeted audiences~~; and

associating said assembly information with said plurality of media segments.

The amendment to claim 1 makes it clear that the claimed invention is directed towards a method which provides for the creation of a plurality of **individual advertisements**, where each of the advertisements is itself part of a message campaign. The method of claim 1

provides media segments and assembly information associated with that information, which may be used to construct individual customized advertisements. It is respectfully submitted that Nemirofsky does not teach such features. Nemirofsky is not directed towards the creation of customized advertisements at all, but rather, as explained in Applicants' previous response, discusses the inserting of pre-made messages into television programming. Nemirofsky, col. 2, l. 33-48. Although the reference may describe inserting such advertisements in a targeted manner, constructing an individual advertisement from media segments, as recited in claim 1, is entirely different from the system described in Nemirofsky. First, in methods according to claim 1, instead of providing pre-made messages which may be inserted into television programming, a plurality of media segments are provided along with assembly information. In this way, individual advertisements may be constructed on the fly. The system of Nemirofsky does not provide such a feature, requiring each individual message to be created in its entirety before being sent to the receiving site. In addition, it is noted that constructing individual advertisements from a plurality of media segments is different in kind from assembling television programming containing some targeted messages. For instance, media segments assembled to form an individual advertisement must generally maintain visual and audio continuity, while simply inserting a targeted message into television programming has no such requirement. In addition, each individual advertisement may be constructed based on numerous pieces of information, as each message may be constructed of multiple segments. In contrast, Nemirofsky allows its pre-made, complete messages to be inserted only based on a single condition, namely an address of the receiving device.

Accordingly, it is respectfully submitted that claim 1 is patentable over Nemirofsky for at least the reasons presented above, as are the remaining claims which depend from it. Withdrawal of the rejection is respectfully requested.

III. Rejection of Claim 5 under 35 U.S.C. § 103(a)

Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Nemirofsky and U.S. Patent Application Publication No. 2003/0221191 ("Khusheim"). It is respectfully submitted that claim 5 is patentable over the cited references for at least the following reasons.

Claim 5 depends from claim 1. As explained above, claim 1 is patentable over Nemirofsky. The Office Action does not suggest that the Khusheim reference addresses the deficiencies of the Nemirofsky reference as to claim 1, and it is respectfully submitted that

the reference does not do so. Accordingly, claim 1 is patentable over the combination of references for at least the reasons presented above, as is claim 5 which depends from it. Withdrawal of the rejection is respectfully requested.

IV. Rejection of Claim 7 under 35 U.S.C. § 103(a)

Claim 7 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Nemirofsky and U.S. Patent No. RE38,376 (“Matthews”). It is respectfully submitted that claim 7 is patentable over the cited references for at least the following reasons.

Claim 7 depends from claim 1. As explained above, claim 1 is patentable over Nemirofsky. The Office Action does not suggest that the Matthews reference addresses the deficiencies of the Nemirofsky reference as to claim 1, and it is respectfully submitted that the reference does not do so. Accordingly, claim 1 is patentable over the combination of references for at least the reasons presented above, as is claim 7 which depends from it. Withdrawal of the rejection is respectfully requested.

V. New Claims 10-21

Claims 10-21 are added. The new claims are fully supported by the application as originally filed and no new matter has been added. In addition, it is respectfully submitted that the claims are patentable over the cited references for at least the following reasons.

First, each of the claims depends from claim 1. As explained above, claim 1 is patentable over the references. Therefore, dependent claims 10-21 are also patentable for the same reasons.

In addition, each of the claims introduces features which are not found in the cited references. For example, claim 10 recites that “the plurality of media segments includes alternative segments of different lengths.” The cited references do not teach or suggest alternative segments of different lengths.

Claim 12 recites that a “rule for choosing a media segment depends on the outcome of a previous choice.” The cited references do not teach or suggest rules for selecting media segments that are conditioned on other choices.

Claim 13 recites that “the assembly information contains a rule disallowing a combination of media segments.” The cited references do not teach or suggest a rule that disallows combinations of media segments.

Claim 14 recites that “each media segment is associated with a segment parameter, the assembly data including a rule basing a choice of a media segment on its associate

segment parameter.” The cited references do not teach or suggest associating segment parameters with media segments and also providing rules which choose media segments based on those segment parameters.

Claim 15 recites that “the segment parameters identify a demographic of an intended audience.” The cited references do not teach or suggest segment parameters which identify a demographic.

Claim 16 recites that “the segment parameters identify an environmental condition.” The cited references do not teach or suggest segment parameters which identify an environmental condition.

Claim 17 recites that “a media segment is associated with a plurality of different segment parameters.” The cited references do not teach or suggest a media segment associated with multiple segment parameters. Additionally, claim 18 recites that “the different segment parameters are assigned priorities, the assembly data including a rule basing a choice of a media segment on the different segment parameters according to the assigned priorities.” The cited references also do not teach assigning priorities.

Claim 19 recites that “the media segments include video segments and other media segments.” The cited references do not teach or suggest providing both video segments and other media segments. Neither do the cited references teach or suggest, therefore, that “the other media segments include audio segments, as recited in claim 20; or that “the assembly information includes rules for the assembly of the video segments and rules for the assembly of the other media segments,” as recited in claim 21.

For at least all of the reasons given above, therefore, it is respectfully submitted that the new claims are patentable over the cited references.

VI. CONCLUSION

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,
K&L Gates LLP

Dated: April 16, 2009

By: /Derek T. Nececkas/
Derek T. Nececkas
Reg. No. 60,276
K&L Gates LLP
599 Lexington Avenue
New York, N.Y. 10022
(212) 536-3900 (telephone)
(212) 536-3901 (facsimile)
CUSTOMER NO. 00545

Electronic Filing System

NY-#675470-v1